



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup
Professionals

ONE WINTER STREET, 3rd Floor
BOSTON, MA 02108
PHONE: 617-556-1091 FAX: 617-292-5872

PROFESSIONAL CONDUCT COMMITTEE
Minutes of Meeting on November 15, 2011
[Approved on January 23, 2012]

Prepared by: Lynn Read

Meeting Location: MASSDEP, Central Regional Office, Worcester, MA

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of meeting on September 15, 2011
3. Active Case List
4. Draft letter informing complainant that complaint number 11C-02 will be dismissed
5. Draft Response to letter dated September 6, 2011 requesting Advisory Ruling
6. Complaint No. 11C-03 and LSP's response, both redacted

1. 1. Call to Order: Elizabeth Callahan called the meeting to order at 1:02 p.m. Also present were Gail Batchelder, Deborah Farnsworth, Kirk Franklin, John Guswa, Debra Listernick, Robert Luhrs, and Farooq Siddique. Board members absent: Christophe Henry, Kelley Race. Staff members present were Beverly Coles-Roby, Terry Wood, Lynn Read and Al Wyman. Also present were Wendy Rundle, LSP Association Executive Director and Wes Stimpson, also of the LSPA.

2. Announcements: There were no announcements.

3. Previous Minutes: The draft minutes of the meeting held on September 15, 2011 were discussed and one editorial change was made. The minutes were approved as amended.

4. Old Business

A. Status of CRTS

At Ms. Callahan's request, each CRT reported on progress made since the September meeting.

B. Review draft dismissal letter re: Complaint No. 11C-02

The draft letter informing the complainant that Complaint No. 11C-02 is dismissed was approved as written.

C. Review draft response to request for advisory ruling

The draft letter responding to the request for Advisory Ruling No. 2011-01 was approved as written.

5. New Business

A. Complaint 11C-03

Ms. Wood stated that the owner of a former hazardous waste site called the Board complaining that when he bought the property he relied on the LSP's 1999 Response Action Outcome statement that the property was clean, but he received a Notice of Audit Finding/Notice of Noncompliance (NOAF/NON) stating that the RAO did not comply with the MCP and now the owner was being fined. The owner said the LSP did not respond to attempts to contact him, and asked whether the LSP could be held responsible to address the NON. Ms. Wood said she asked the owner to file a written complaint with the Board.

The written complaint included a copy of the NOAF/NON, which stated that the RAO failed to document that two private wells on residential property within 500 feet of the site had been properly abandoned and no cross-connection existed between the wells and the public water supply. The NON/NOAF also stated that the groundwater flow direction and downgradient extent of the plume had not been adequately determined, and it required that a revised RAO or a Tier I Permit Application be submitted.

Ms. Wood stated that after the written complaint was sent to the LSP, the complainant called again and said the LSP had contacted the complainant and the owner was satisfied that the LSP would adequately address the violations in the NOAF/NON. He asked to withdraw the complaint. Ms. Wood explained the Board's policy that complaints cannot be withdrawn.

The members present discussed the complaint, the LSP's written response, and the complainant's request to withdraw the complaint. The members stated that the Board would not allow the complaint to be withdrawn because it is the Board's policy to investigate the facts alleged in the complaint and the LSP's work at time it was performed. Committee members stated that this policy is designed to meet the Board's responsibility to ensure that LSPs are practicing in a way to protect public health, welfare, safety, and the environment.

A motion was made and seconded to appoint a Screening Team to further review the Complaint, the response, and related documents and make a recommendation whether the Board should accept the Complaint for investigation or take other action. Mr. Siddique and Ms. Batchelder were appointed to the Screening Team.

6. Future Meetings

The Committee is scheduled to meet on January 24, 2012 at MassDEP's Northeast Regional Office in Wilmington.

7. Adjournment: The meeting was adjourned at 1:53 p.m.